

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

TIMOTHY HINCKLEY and JUNE HINCKLEY,

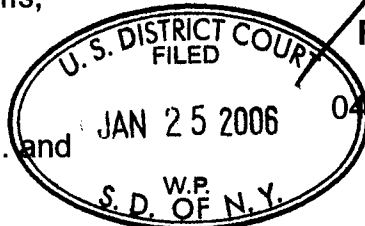
Plaintiffs,

-against-

WESTCHESTER RUBBISH, INC. and  
TOWN OF LEWISBORO,

Defendants.

USDC SDNY  
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DOC #:  
DATE FILED:



REPORT AND  
RECOMMENDATION

04 Civ. 0189 (SCR) (GAY)

TO THE HONORABLE STEPHEN C. ROBINSON, United States District Judge:

On December 19, 2005, Your Honor entered a partial default judgment against defendant Westchester Rubbish, Inc. On December 20, 2005, Your Honor referred this matter to the undersigned to report and recommend the amount of damages to be awarded plaintiff against Westchester Rubbish, Inc.

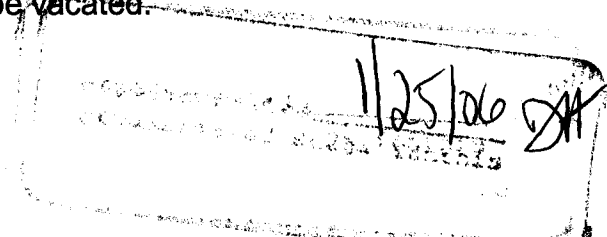
Upon preliminary inspection of the default papers, it appeared to the undersigned that the record is devoid of proof that plaintiffs served defendant Westchester Rubbish, Inc. with a copy of plaintiff's Request to Enter Partial Default As Against Westchester Rubbish, Inc. (Docket #12). Thus, by Order dated January 3, 2006, the undersigned directed plaintiffs to submit said proof of service to Chambers no later than January 13, 2006.

Plaintiffs have failed to provide said proof of service. Accordingly, I conclude, and respectfully recommend, that the partial default judgment entered against defendant Westchester Rubbish, Inc. should be vacated.

MICROFILM

JAN 25 2006

USDC SDNY WP



## NOTICE

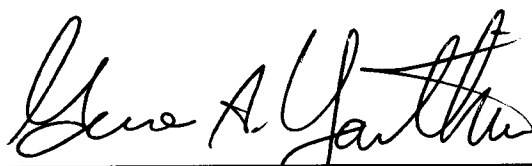
Pursuant to 28 U.S.C. § 636(b)(1)(B), as amended, and Rule 72(b), Fed. R. Civ. P., the parties shall have ten (10) days from receipt of this Report to serve and file written objections to this Report and Recommendation. If copies of this Report are served upon the parties by mail, the parties shall have thirteen (13) days from receipt of this Report to file and serve written objections. See Fed. R. Civ. P. 6(e). Such objections, if any, shall be filed with the Clerk of the Court, with extra copies delivered to the chambers of The Honorable Stephen C. Robinson at the United States District Court, Southern District of New York, 300 Quarropas Street, White Plains, New York, 10601, and to the chambers of the undersigned at said Courthouse.

Failure to file timely objections to this Report and Recommendation will preclude later appellate review of any order of judgment that will be entered. See Small v. Secretary of H.H.S., 892 F.2d 5, 16 (2d Cir. 1989).

Requests for extensions of time to file objections must be made to the Honorable Stephen C. Robinson and not to the undersigned.

Dated: January 25, 2006  
White Plains, New York

Respectfully Submitted,

  
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GEORGE A. YANTHIS, U.S.M.J.